

## **REMARKS/ARGUMENTS**

This paper is submitted in response to the Office Action dated January 30, 2007. This paper also responds to the supplemental final Office Action mailed on February 21, 2007. As of the mailing date of the supplemental office action, claims 8-16 and 23 were pending in the application. In both Office Actions, claims 8-13, 15, 16 and 23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,314,565 issued to Kenner et al (hereinafter "Kenner") in view of U.S. Patent No. 5,726,909 issued to Krikorian (hereinafter "Krikorian"). Claim 14 was also rejected in both Office Actions under § 103(a) as being unpatentable over Kenner in view of Krikorian and in further view of U.S. Patent No. 6,980,963 issued to Hanzek (hereinafter "Hanzek").

By this paper, Applicants respectfully respond to these issues. Favorable consideration and allowance of the claims is respectfully requested

### **I. Rejection of Claims 8-13, 15, 16 and 23 Under 35 U.S.C. § 103(a)**

The Examiner rejected claims 8-13, 15, 16 and 23 under 35 U.S.C. § 103(a) based on Kenner in view of Krikorian. This rejection is respectfully traversed.

The M.P.E.P. states that

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.

The initial burden is on the examiner to provide some suggestion of the desirability of doing what the inventor has done. To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.

M.P.E.P. § 2142.

Applicants respectfully submit that the claims at issue are patentably distinct from the cited references. The cited references do not teach or suggest all of the elements in these claims. In the present case, independent claim 8 has been amended to recite that “in response to updates being available from the server, downloading one or more updates from the server, wherein the downloading occurs without user input.” Such a claim element is not taught or suggested by either Kenner or Krikorian. The Examiner has not cited any portion of Krikorian that relates to this claim element. Rather, the Examiner asserts that Col. 4, lines 38-53 of Kenner teaches this step of “downloading.” However, this section of Kenner (or any other section of Kenner for that matter) does not teach or suggest that the downloading occurs without user input, as required by the claim. On the contrary, Kenner teaches that user input is required before the downloading will occur. Specifically, the user must input which files/software programs are to be downloaded:

Based on this comparison, the updating tool is able to advise the user as to the availability of upgrades which can be used to enhance the multimedia software preexisting on the user terminal, and also of new multimedia software that is not presently installed on the user terminal. *The user then has the option to upgrade his existing multimedia software or download new multimedia software. If the user requests new software or software upgrades,* the updating tool uses the instructions in the script file, as well as *user information that is input by the user* only once and then stored at the user terminal, to simulate manual transactions between the user terminal and the servers where the desired upgrades are stored.

Kenner Col. 4, lines 58-Col. 5, line 4 (italics added). Thus, because user input is required to select which, if any, programs are to be downloaded, Kenner clearly does not teach or suggest all the claim elements that no user input is required for the downloading step.

Thus, because the cited references fail to teach or suggest that the downloading occurs without user input, as recited in independent claim 8, Applicants respectfully submit that independent claim 8 is patentably distinct from the cited references. Withdrawal of this rejection is respectfully requested.

Claims 9-13, 15, 16 and 23 depend either directly or indirectly from claim 8.<sup>1</sup> Accordingly, Applicants respectfully request that the rejection of claims 9-13, 15, 16 and 23 be withdrawn for at least the same reasons as those presented above in connection with claim 8.

Further, with respect to claim 23, this dependent claim expressly recite that “the multimedia computing device is a multimedia display device, and wherein the multimedia content does not allow input from a user of the multimedia display device.” Applicants submit that this claim element is not taught or suggested by cited references. The Examiner has not cited any portion of Krikorian that relates to this claim element. In the Office Action, the Examiner asserts that Col. 2, line 56 through Col. 3, line 20 of Kenner relates to this claim element. However, a clear reading of this passage does not teach or suggest a system wherein “the multimedia content does not allow input from a user of the multimedia display device.” Rather, this passage of Kenner teaches the playing of a “video clip *requested* by a user.” (Italics added.) Having the user “request” the video is clearly receiving user input—*i.e.*, the user must input his or her request of the video clip to be played. This teaching is the antithesis of the present system which requires that there be no “input from a user of the multimedia display device.” Accordingly, as this claim element is not taught or suggested by the cited references, allowance of this claim is respectfully requested.

## II. Rejection of Claim 14 Under 35 U.S.C. § 103(a)

Claim 14 was rejected under § 103(a) as being unpatentable over Kenner in view of Krikorian and in further view of U.S. Patent No. 6,980,963 issued to Hanzek. However, claim 14 depends from claim 8. Accordingly, as claim 14 is patentable over the prior art documents, then claim 14 is similarly patentable. In fact, Applicants submit the combination of Kenner, Krikorian, and Hanzek fails to teach or suggest all of the elements found in claim 14. Thus, withdrawal of this rejection is respectfully requested.

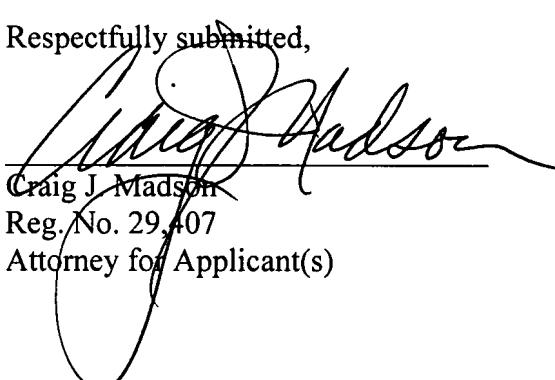
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<sup>1</sup> Claim 23 has been amended herein to expressly depend from pending claim 8 rather than canceled claim 22.

**III. Conclusion**

Applicants respectfully request that a timely Notice of Allowance be issued in this case. If there are any remaining issues preventing allowance of the pending claims that may be clarified by telephone, the Examiner is requested to call the undersigned.

Respectfully submitted,

  
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